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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,572	10/10/2000	Thomas James Dubil	US000183	4775

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10/27/2003

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EXAMINER

NGUYEN, NHON D

ART UNIT

PAPER NUMBER

2174

DATE MAILED: 10/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/686,572

Applicant(s)

DUBIL ET AL.

Examiner

Nhon (Gary) D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. This communication is responsive to Amendment A, filed 08/12/2003.
2. Claims 1-12 are pending in this application. Claims 1, 7, and 9-12 are independent claims. In the Amendment A, claims 1, 3, 4, and 7-9 are amended, and claims 11 and 12 are added. This action is made final.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 7, and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (US 6,133,847) in view of Humpleman et al. ("Humpleman", US 6,546,419).

As per independent claim 1, Yang teaches a method of providing data representative of a control code for installation on a control device, the control device being capable of controlling one or more apparatuses upon receipt of a control code for an apparatus (col. 7, lines 15-20), wherein the apparatus is not pre-configured to deliver or cause delivery of its respective control code to the control device (col. 7, line 48 – col. 8, line 9). Yang does not disclose data representative of a control code provided in a mark-up language format. Humpleman discloses that in col. 9, line 53 – col. 10, line 15. It would have been obvious to an artisan at the time of the invention to use the teaching from Humpleman of providing data representative of a control code

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in a mark-up format in Yang's system since it would allow the system to easily integrate into the Internet/Web network.

As per claim 2, which is dependent on claim 1, Yang teaches the data is provided via a data network (fig. 5, col. 7, lines 48-57).

As per claim 3, which is dependent on claim 2, Yang teaches:

Enabling a user to specify to a server on the network an apparatus for being controlled by the control device; and enabling the server to identity a corresponding control code for being provided as the data in the mark-up language format (col. 7, line 54 – col. 8, line 25).

As per independent claim 7, Yang teaches a remote control device suitable for receiving data for being installed on the device as a control code for control of CE equipment (col. 7, lines 15-20), the control device being capable of controlling one or more apparatuses upon receipt of a control code for an apparatus, wherein the apparatus is not pre-configured to deliver or cause delivery of its respective control code to the control device (col. 7, line 48 – col. 8, line 9). Yang does not disclose data representative of a control code provided in a mark-up language format. Humpleman discloses that in col. 9, line 53 – col. 10, line 15. It would have been obvious to an artisan at the time of the invention to use the teaching from Humpleman of providing data representative of a control code in a mark-up format in Yang's system since it would allow the system to easily integrate into the Internet/Web network.

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As per independent claim 9, Yang teaches a data base for control codes for controlling apparatus through a control device remote from the control device, the control codes being deliverable to the control device independent of the controlling apparatus (col. 7, lines 54-57). Yang does not disclose the control code formatted in a mark-up language. Humpleman discloses that in col. 9, line 53 – col. 10, line 15. It would have been obvious to an artisan at the time of the invention to use the teaching from Humpleman of providing the control code in a mark-up format in Yang's system since it would allow the system to easily integrate into the Internet/Web network.

As per independent claim 10, it is rejected under the same rationale as claim 1.

As per claim 11, Yang teaches a method of providing data representative of a control code for installation on a control device, comprising:

Enabling a user to specify to a server on the network an apparatus for being controlled by the control device; and enabling the server to identity a corresponding control code for being provided as the data in the mark-up language format (col. 7, line 54 – col. 8, line 25). Yang does not disclose data representative of a control code provided in a mark-up language format. Humpleman discloses that in col. 9, line 53 – col. 10, line 15. It would have been obvious to an artisan at the time of the invention to use the teaching from Humpleman of providing data representative of a control code in a mark-up format in Yang's system since it would allow the system to easily integrate into the Internet/Web network.

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5. Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang and Humpleman as applied to claim 1 and further in view of Jackson (US 5,963,264).

As per claim 4, which is dependent on claim 1, modified Yang does not disclose the control code is part of an EPG or ECG. Jackson discloses that in col. 2, lines 47-50. It would have been obvious to an artisan at the time of the invention to use the teaching from Jackson of having the control code as part of an EPG or ECG since it would allow the control device to control an apparatus and to navigate through its EPG using the same remote control device.

As per independent claim 12, Yang teaches a method of providing data representative of a control code for installation on a control device (col. 7, lines 15-20). Yang does not disclose data representative of a control code provided in a mark-up language format. Humpleman discloses that in col. 9, line 53 – col. 10, line 15. It would have been obvious to an artisan at the time of the invention to use the teaching from Humpleman of providing data representative of a control code in a mark-up format in Yang's system since it would allow the system to easily integrate into the Internet/Web network.

The modified Yang does not disclose the control code is part of an EPG or ECG. Jackson discloses that in col. 2, lines 47-50. It would have been obvious to an artisan at the time of the invention to use the teaching from Jackson of having the control code as part of an EPG or ECG since it would allow the control device to control an apparatus and to navigate through its EPG using the same remote control device.

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6. Claims 5, 6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang in view of Humpleman and further in view of Mitani (US 6,466,233).

As per claims 5 and 6, which are dependent on claims 1 and 5, respectively, modified Yang does not teach supplying a GUI element for use on the control device, the GUI element being supplied as further data in the mark-up language format and the GUI element comprises a graphical representation of a remote control device. Mitani teaches supplying a GUI element for use on the control device, the GUI element being supplied as further data in the mark-up language format (fig. 2; col. 4, lines 48-60) and the GUI element comprises a graphical representation of a remote control device (fig. 9; col. 6, lines 66-67 through col. 7, lines 1-19). It would have been obvious to an artisan at the time of the invention to use the teaching from Mitani of supplying a GUI element for use on the control device, the GUI element being supplied as further data in the mark-up language format and the GUI element comprises a graphical representation of a remote control device in modified Yang's system since it would allow the use of a remote control device without a need for a separate monitor display device.

As per claim 8, which is dependent on claim 7, it is rejected under the same rationale as claim 5.

Response to Arguments

7. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Inquiries

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhon (Gary) D Nguyen whose telephone number is 703-305-8318. The examiner can normally be reached on Monday - Friday from 8 AM to 5:30 PM with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L Kincaid can be reached on 703-308-0640. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Nhon (Gary) Nguyen
October 09, 2003

Kristine Kincaid
KRISTINE KINCAID
SUPERVISORY PATENT EXAMINER
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